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**UNITED STATES DISTRICT COURT**

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**EASTERN DISTRICT OF TEXAS**

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DANIEL JIMENEZ, #26454-077

*versus*

UNITED STATES OF AMERICA

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§  
§  
§CIVIL ACTION NO. 4:13-CV-5  
CRIMINAL ACTION NO. 4:09-CR-155(1)**ORDER OF DISMISSAL**

The above-entitled and numbered civil action was referred to a United States Magistrate Judge, who issued a Report and Recommendation concluding that Movant's motion filed pursuant to 28 U.S.C. § 2255 should be denied. Movant filed objections to one issue. He attempts to "incorporate by reference the arguments raised in his § 2255 motion." However, objections that merely incorporate by reference are not specific, and as such, bar Movant from appealing the unobjected-to findings and conclusions. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superceded by statute on other grounds*, 28 U.S.C. § 636(b)(1).

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having made a *de novo* review of the objections raised by Movant to the Report, the Court concludes that the findings and conclusions of the Magistrate Judge are correct and the objections of Movant are without merit. Movant simply reurges the same issue raised in his motion. However, as noted in the Report, even if counsel performed deficiently, Movant fails to show that there is a reasonable probability that, but for counsel's alleged unprofessional errors, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 694, 104 S. Ct. 2052, 2068, 80 L. Ed.2d 864 (1984). It is accordingly

**ORDERED** that Movant's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (#1) pursuant to 28 U.S.C. § 2255 is **DENIED**, and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions by either party not previously ruled upon are **DENIED**.

SIGNED at Beaumont, Texas, this 22nd day of March, 2016.

A handwritten signature in cursive script, reading "Marcia A. Crone".

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE